



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET #SC2004-0011**

June 22, 2004

Peter Aikens, Jr.
1215 Ocean Boulevard
Rye, NH 03870

**RE: Wetlands Bureau Complaint File #2003-2748, Aikens, Jr., 1323 Ocean Boulevard, Rye
Tax Map 17-4 / Lot 37.**

Dear Mr. Aikens, Jr

As you are aware, on June 6, 2004, personnel from the Department of Environmental Services ("DES") along with the Rye Building Inspector conducted an inspection of the above referenced property, more specifically referenced on the Town of Rye Tax Map 17-4 as Lot 37 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A, the New Hampshire Wetlands Law.

It has been determined that the following work was conducted within DES Wetlands Bureau jurisdiction without a permit:

- A dock was constructed along the shore of Parsons Creek;
- 2. A water intake line was installed within Parsons Creek;
- 3. Two freezers were installed within the upland tidal buffer zone;
- 4. A flagpole was installed within the upland tidal buffer zone;
- 5. An additional 80 sq. ft. of fill was placed within the upland tidal buffer zone beyond what was approved under NHDES Wetlands Permit #2003-2748.
- 6. A dumpster was placed along the top of the bank of Parsons Creek within the upland tidal buffer zone.

DES requests that you take the following action

With regard to #1 above, either remove the dock or apply after-the-fact to retain the dock

- 2. With regard to #2 above, either remove the water intake line or apply after-the-fact to retain the water intake line.
- 3. With regard to #3 above, either remove the two freezers or apply after-the-fact to retain the freezers.

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4. With regard to #4 above, either remove the flagpole or apply after-the-fact to retain the flagpole.
5. With regard to #5 above, submit both the existing conditions plan, and a restoration plan no later than August 1, 2004 for review and approval including:
 - a. A plan with dimensions for the removal of the unpermitted fill in the upland tidal buffer zone as quantified above and regrading the disturbed areas to original contours;
 - b. Planting plan for the stabilization of the removal areas;
 - c. Equipment and methods of erosion control (silt fence, hay bales, etc.);
 - d. Construction sequence and timetable for accomplishing remediation no later than September 1, 2004.
6. With regard to #6 above and as we discussed, move the dumpster at least 10 ft. landward from the top of the bank of Parsons Creek.

Please note that if you decide to apply after-the-fact for above items #1-#4, they must meet current DES rules and regulations under RSA 482-A, the New Hampshire Wetlands Law, RSA 483-B, the New Hampshire Comprehensive Shoreland Protection Act, and the Wetlands Bureau Code of Administrative Rules Wt 100-800.

In addition, the concrete helicopter pad on the property can be maintained without a wetlands permit providing it meets the following conditions under Wt 303.05(a):

1. The size, location, configuration, and construction shall remain unchanged;
2. There shall be no work on any portion of the structure located in the water
3. The work shall not require the use of tracked or wheeled equipment in the department's jurisdiction;
4. The structure has not been abandoned. Failure to maintain an existing structure in a state so that it is functional, and intact, for a period of five (5) years shall be prima facie evidence of abandonment or non-use.

Please respond to this letter in writing by **July 6, 2004** of what your intentions are for the above referenced items.

RSA 482-A and RSA 483-B, the New Hampshire Wetlands Law and the New Hampshire Comprehensive Shoreland Protection Act, were enacted to protect and preserve wetlands, surface waters and the shoreline from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a

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permit from the Wetlands Bureau and comply with the Comprehensive Shoreland Protection Act. If work is done without a permit from the Wetlands Bureau and is not in compliance with the New Hampshire Comprehensive Shoreland Protection Act, this is considered a violation of RSA 482-A and 483-B. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

David Price, Compliance Investigator
Wetlands Bureau
Department of Environmental Services
360 Corporate Drive
Suite 2
Portsmouth, NH 03801

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact David Price at (603) 433-6183 or by e-mail at dprice@des.state.nh.us.

Sincerely,

COPY


Frank D. Richardson, Ph.D.
Senior Wetlands Inspector
Coastal Region Supervisor
DES Wetlands Bureau

FDR/dap

CERTIFIED MAIL #7003 1010 0003 3557 2814

cc: Rene Pelletier, Manager, Land Resources Management Program
DES Legal Unit
Rye Conservation Commission
Susan Zarlengo, Rye Building Inspector